IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2455 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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PRASENAVADA GRAM PANCHAYAT

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2455 of 2000

MR JAYANT PATEL for Petitioner No. 1

MR SUDHANSHU PATEL, AGP, for Respondent No. 1

DS AFF.NOT FILED (R) for Respondent No. 2

MR PV HATHI for Respondent No. 3

MR BH CHHATRAPATI for Respondent No. 4

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 24/08/2001

ORAL JUDGEMENT

The petitioner-Gram Panchayat had filed this

petition challenging the action on the part of the State Government in entertaining the reference application filed by respondent No.4 - Gujarat Sidhee Cement Ltd. under sec. 201 of the Gujarat Panchayats Act, 1993 (hereinafter referred to as `the Act') read with Rule 8 of relevant Rules for which the petitioner -Panchayat had received the notice dated 31-3-2000 (Annexure A).

2. By order dated 4-5-2000 this Court gave direction to the State Government to hear all the parties and to render its decision. It was further directed that till the reference is decided by the Government, the octroi shall continue to be collected departmentally and no contract for the purpose of collecting octroi shall be given to any party.

3. At the hearing of this petition, Mr. Jayant Patel, learned counsel for the Panchayat states that the State Government did hear all the parties concerned and ultimately passed final order dated 1-1-2001. Mr. Patel further states that the said order dated 1-1-2001 has been challenged by the petitioner - Gram Panchayat in Special Civil Application No.432 of 2001 wherein the petitioner- Panchayat has also challenged the constitutional validity of section 201 (3) of the Act and the said petition is admitted and interim order is passed in favour of the petitioner - Panchayat.

4. In view of the above development, it is obvious that the present petition which was filed at an interlocutory stage of the reference has become infructuous as the main controversy between the parties has subsequently been determined by the State Government by order dated 1-1-2001 which is the subject matter of challenge in another petition being Special Civil Application No.432 of 2001. The present petition has, therefore, become infructuous and the same is dismissed as infructuous without prejudice to the rights and contentions of the parties in Special Civil Application No.432 of 2001. Rule is discharged.

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